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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,336

05/02/2005

Jean Kergomard

0552-1014

5167

466

7590

06/20/2008

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EXAMINER

RUSSELL, CHRISTINA MARIE

ART UNIT

PAPER NUMBER

2837

MAIL DATE

DELIVERY MODE

06/20/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,336	Applicant(s) KERGOMARD ET AL.	
	Examiner CHRISTINA RUSSELL	Art Unit 2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 27 is/are rejected.
- 7) ☒ Claim(s) 8-26 and 28-30 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/05</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.
2. The Examiner is referring to the Non-Patent Literature mentioned on page 4, line 21, of the Specification, which has not been provided for consideration or cited in the IDS.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters 1-5, 10, 21-23 and 31 have been used to designate both elements in the Drawings and Equations within the Specification. If the Applicant wishes to maintain the reference numbers, the Examiner suggests placing the equation numbers in parenthesis when referred to in the Specification to provide clarity. For example, see page 17, lines 21 and 22 of the Specification.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities:
6. The Specification fails to provide headings.
7. After the Title, the appropriate headings to follow are:
8. I. BACKGROUND OF THE INVENTION, which consists of the:
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
9. II. BRIEF SUMMARY OF THE INVENTION
10. III. BRIEF DESCRIPTION OF THE DRAWING(S).
11. and
12. IV. DETAILED DESCRIPTION OF THE INVENTION.

13. For example, the heading BACKGROUND OF THE INVENTION should be placed directly after the Title, while the heading BRIEF DESCRIPTION OF THE DRAWING(S), should be placed on page 10, line 9, before the discussion of the Figures.

Appropriate correction is required.

14. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 101

15. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

16. Claims 1-7 and 27 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

17. Claims 1-7 and 27 are directed towards a digital simulation method claiming information in the abstract. The method claimed is not a method to be performed; there is no action, the steps are abstractly done, there is no machine implementation and

there are no tangible results provided/outputted (tangible means being in the real world). As the MPEP states, as cited above, “whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title”, therefore, if the method is in the abstract then it is not deemed useful. The claimed subject matter must have a sufficient “tie-in” to something tangible.

Allowable Subject Matter

18. Claims 8-26 and 28-30 are objected to as being dependent upon a rejected base claim, but appear to contain allowable subject matter and therefore would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims, thereby overcoming the rejection(s) under 35 U.S.C. 101, set forth in this Office Action.

Conclusion

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see the Notice of References Cited provided by the Examiner.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINA RUSSELL whose telephone number is (571)272-4350. The examiner can normally be reached on Mon-Fri, 7-4.

21. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lincoln Donovan can be reached on 571-272-1988. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

22. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CR
6/17/2008
/Lincoln Donovan/
Supervisory Patent Examiner, Art Unit 2837